

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

**NOTICE REGARDING REFUNDS ON
JOINT TAX RETURNS IN CHAPTER 13 CASES**

On March 12, 2010, the Court issued a notice regarding tax refunds in chapter 13 cases. That notice provided that in each case in which a debtor's chapter 13 plan provides for payment of tax refunds to the trustee, the debtor shall sign, as requested by the trustee, any appropriate IRS forms that authorize the IRS to forward the debtor's tax refunds directly to the trustee, and any appropriate forms that authorize the trustee to endorse, negotiate and deposit the debtor's tax refund for application to the debtor's chapter 13 account. Recently an issue has arisen with respect to the execution of such forms in cases where the debtor and a non-debtor spouse file a joint tax return. This notice is issued by the Court to address that circumstance.

When only one spouse files a chapter 13 case, but the debtor and the non-debtor spouse file a joint tax return, the debtor must provide the trustee, if requested by the trustee, the appropriate IRS forms signed by the debtor and by the non-debtor spouse. For example, if a trustee requires the debtor to execute an IRS form 2848, power of attorney, such form must be signed both by the debtor and by the non-debtor spouse as a condition for confirmation of the debtor's chapter 13 plan. This is to ensure that any refund with respect to a joint tax return will be transmitted by the IRS to the trustee so that the debtor's share of such joint tax refund will be applied to the debtor's obligations under the debtor's chapter 13 plan.

In each case where the debtor and the non-debtor spouse file a joint tax return, the order confirming plan in the debtor's chapter 13 case must contain a formula or mechanism for allocating any joint tax refunds between the debtor and the non-debtor spouse to avoid unnecessary litigation in the future.

In each case where the debtor and the non-debtor spouse file a joint tax return, and a joint tax refund is received by the chapter 13 trustee, the trustee must promptly remit to the non-debtor spouse his or her share of the joint tax refund.

June 28, 2010

Phillip J. Shefferly
Chief Bankruptcy Judge